IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO.347 OF 2007

Maksimen Jaisingh D'Souza & ors. .. Appellants

V/s.

Sarfrajkhan M. Inamdar & ors. .. Respondents

Mr.T.J. Mendon for Appellants.

Mrs.Arati Barve for Respondent No.2.

CORAM : ROSHAN DALVI, J.

Dated : 8th June, 2007

P.C. :

1. This is an unfortunate incident in which a widow and two children have applied for compensation. Their claim has been rejected by the Trial Court and hence, this Appeal.

2. It is an admitted position that the deceased was getting salary a little over of Rs.4,000/- . He, therefore, was earning approximately Rs.32,000/- per year. On the basis of

multiplier 15 in Schedule 2 of the Motors Vehicles Act, the Appellants would be entitled to Rs.479998/- . Considering the other payments for funeral, loss of estate and loss of consortium, a sum of Rs.20,000/- would be paid. The Appellants would be entitled to Rs.Five Lacs approximately.

3. The Appellants' Advocate has rightly conceded that instead of admission of the Appeal, a fair and reasonable figure be determined at present by the Court, which the Appellants are willing to accept. He states that the Appellants have not received any compensation under the Workmen Compensation Act or the ESI Act.

4. The Advocate for the Insurance Company has contended that the Insurance Company is not liable to pay at all. The facts of the case do not merit such argument. It is seen that the Appellants are indeed entitled to receive some amount as aforesaid. Interest of justice would be met if the Insurance Company is directed to pay a reasonable amount albeit lesser than the actual calculation as aforesaid. Hence, the following

O R D E R

Upon the Appellants filing an Affidavit stating that they have not received any compensation under any other legislation or provisions of law, the Insurance Company shall deposit in the Trial Court a sum of Rs.3,25,000/- in full and final settlement of the claim of the Appellants, exclusive of whatever amount which may have been deposited in the Trial Court, within a period of 8 weeks after the receipt of the Affidavit of the Appellants. The order of the Tribunal is set aside.

5. Appeal disposed of accordingly.

(ROSHAN DALVI, J.)